



STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
ANDREW J. KOSSACK

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

March 5, 2010

Via Electronic Mail

Leslie Douglass
sd@coolsky.com

Re: Informal Inquiry 10-FC-8; Meetings of a School Board

Dear Ms. Douglass:

This is in response to your informal inquiry regarding whether a school board ("Board") posted notice of a public meeting in accordance with the Open Door Law ("ODL"), I.C. § 5-14-1.5-1 *et seq.* Pursuant to Ind. Code § 5-14-4-10(5), I issue the following informal opinion in response to your inquiry. My opinion is based on applicable provisions of the ODL.

In your inquiry, you ask whether the Board properly posted notice of its November 30, 2009, special meeting. The Board posted notice of that meeting on the bulletin board in the outside entrance of the administrative office at 1:00 p.m. on Wednesday, November 25, 2009. The doors of that office are locked at approximately 4:30 p.m. daily. The doors remained locked from approximately 4:30 on November 25th until the following Monday morning -- November 30th -- due to the Thanksgiving holiday. The Board held its special meeting on November 30th.

The ODL provides the following regarding notices of public meetings:

(a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting . . .

(b) Public notice shall be given by the governing body of a public agency by:

(1) posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held; and

(2) delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body of the public agency. The governing body shall give notice by one (1) of the following methods:

(A) Depositing the notice in the United States mail with postage prepaid.

(B) Transmitting the notice by electronic mail.

(C) Transmitting the notice by facsimile (fax).

I.C. § 5-14-1.5-5. Under section 5(a) of the ODL, weekends and legal holidays are excluded when calculating the 48-hour notice requirement of the ODL. Therefore, if -- as you allege -- the Board posted notice at 1:00 p.m. on the business day prior to the day on which the meeting was held, the Board did not post the notice "at least forty-eight (48) hours before the meeting" as required by the ODL. *Id.* In that case, the notice failed to comply with the ODL.

If I can be of additional assistance, please do not hesitate to contact me.

Best regards,

A handwritten signature in black ink that reads "Andrew J. Kossack". The signature is written in a cursive, slightly slanted style.

Andrew J. Kossack
Public Access Counselor